

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Vasahun Gaulman,

Plaintiff,

V.

Alvin S.G.D.C., Officer Harvey,
Sgt. Dyer, Sgt. Salman,

Defendants.

Case No. 9:22-cv-4115-RMG

ORDER AND OPINION

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 9) recommending that Plaintiff’s complaint be dismissed without prejudice. For the reasons set forth below, the Court adopts the R&R as the order of the Court and dismisses Plaintiff’s complaint without prejudice.

I. Background

Plaintiff is a pretrial detainee at the Alvin S. Glenn Detention Center (“ASGDC”) and filed his complaint pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (Dkt. No. 1).

On January 5, 2023, the Court issued an order notifying Plaintiff that his complaint was subject to summary dismissal because he failed to allege sufficient factual allegations to state a claim. (Dkt. No. 5). The Court granted Plaintiff twenty-one days to file an amended complaint and bring his case into proper form for evaluation and possible service of process.

On February 22, 2023, the Magistrate Judge issued an R&R recommending that this action be dismissed without prejudice and without leave to amend. (Dkt No. 9). Plaintiff did not file objections to the R&R.

II. Legal Standards

a. Magistrate’s Report and Recommendation

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted).

b. Pro Se Pleadings

This Court liberally construes complaints filed by *pro se* litigants to allow the development of a potentially meritorious case. *See Cruz v. Beto*, 405 U.S. 319 (1972); *Haines v. Kerner*, 404 U.S. 519 (1972). The requirement of liberal construction does not mean that the Court can ignore a clear failure in the pleadings to allege facts which set forth a viable federal claim, nor can the Court assume the existence of a genuine issue of material fact where none exists. *See Weller v. Dep't of Social Services*, 901 F.2d 387 (4th Cir. 1990).

III. Discussion.

After a thorough review of the R&R and the applicable law, the Court adopts the R&R in its entirety and hereby incorporates the R&R by reference. Accordingly, the Court dismisses Plaintiff’s complaint with prejudice. As accurately stated in the R&R, the complaint is subject to dismissal because (1) ASGDC is not a “person” under § 1983; (2) Plaintiff fails to plead specific

facts to support a claim against any of the named Defendants; (3) Plaintiff's condition of confinement claims fail to show he was treated with "deliberate indifference" by Defendants; (4) Plaintiff's medical claims express only disagreement with medical treatment received and not deliberate indifference to a serious medical need; and (5) Plaintiff's claim that Defendants failed to follow ASGDC policies or rules is not actionable under § 1983.

IV. Conclusion

For the reasons set forth above, the Court **ADOPTS** the R&R (Dkt. No. 9) as the order of the Court and dismisses Plaintiff's complaint without prejudice. The Clerk is directed to close this action.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

March 15, 2023
Charleston, South Carolina